

Order

Michigan Supreme Court
Lansing, Michigan

March 23, 2009

Marilyn Kelly,
Chief Justice

137194 & (24)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 137194
COA: 284737
Wayne CC: 04-011761-01

CARLOS DULEY,
Defendant-Appellant.

By order of January 21, 2009, the prosecuting attorney was directed to answer the application for leave to appeal the August 5, 2008 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Wayne Circuit Court, and we REMAND this case to the trial court for resentencing. The trial court erred in assessing 25 points under Prior Record Variable 1, MCL 777.51, because the defendant did not have any prior high severity felony convictions. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



p0316

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 23, 2009

Corbin R. Davis

Clerk